### **Department of Community Planning and Economic Development – Planning Division**

Appeal of the Decision of the Zoning Administrator BZZ–5551

**Date:** June 7, 2012

**Applicant:** Steven J. Wells

**Address of Property:** 2380 West Lake of the Isles Parkway

**Project Name:** Appeal of the determination of the Zoning Administrator

Contact Person and Phone: Steven J. Wells, (952) 516-5526

**Planning Staff and Phone:** Jacob Steen, (612) 673-2264/Steve Poor (612) 673-5837

**Date Application Deemed Complete:** April 23, 2012

**End of 60-Day Decision Period:** June 21, 2012

Ward: 7 Neighborhood Organization: Kenwood Isles Area Association

**Existing Zoning:** R2B Two Family District, SH Shoreland Overlay District

**Zoning Plate Number: 17** 

**Legal Description:** Not applicable for this application

**Proposed Use:** Single Family Dwelling

**Appeal of the decision of the Zoning Administrator:** Application by Steven J. Wells for an appeal of the Zoning Administrator's approval of a new single family dwelling located at 2380 West Lake of the Isles Parkway (BZZ 5396), on the contention that the front yard setback was improperly determined.

#### § 525.170. Appeals of decisions of the zoning administrator.

All findings and decisions of the zoning administrator, director of regulatory services, planning director or other official involved in the administration or the enforcement of this zoning ordinance shall be final subject to appeal to the board of adjustment, except as otherwise provided by this zoning ordinance. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within ten (10) calendar days of the date of the decision. Timely filing of an appeal shall stay all proceedings in the action appealed, unless the zoning administrator certifies to the board of adjustment, with service of a copy to the applicant, that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed. The board of adjustment shall hold a public

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hearing on each complete application for an appeal as provided in section 525.150. All findings and decisions of the board of adjustment concerning appeals shall be final, subject to appeal to the city council as specified in section 525.180

**Background and Analysis**: On September 27, 2011, the property owner of 2380 West Lake of the Isles Parkway received approval from the Minneapolis Heritage Preservation Commission to proceed with the demolition of a two-story split-level residence. In November, 2011, the home builder, on behalf of the property owner, submitted an application for an administrative site plan review for a new single family home (BZZ 5396). The newly constructed home was to be closer to the front property line than the previous structure, but it was determined that the application complied with the requirements of the zoning ordinance. Staff approved the site plan review application and approved the building permit on November 9, 2011 (BINB 2002905).

**Corner Lot Analysis:** Under the Minneapolis zoning ordinance, a corner lot is defined as "A lot with frontage on two (2) or more streets at their intersection or on two parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees." MCO § 520.160 (emphasis added).

When reviewing the original building permit and site plan approvals CPED staff did not identify that the lot was in fact fronting both on Kenwood Parkway and Lake of the Isles Parkway. The property's classification as a corner lot was identified following the appellants application, based on an analysis of the underlying plat map. (Attachment 4).

The property at 2380 West Lake of the Isles Parkway is comprised of approximately one and a half platted lots. The larger of the underlying lots—fronting West Lake of the Isles Parkway—is approximately 61 feet wide at the street and 32 feet wide at the alley. The smaller lot is the southeastern portion of a lot which is intersected by the west property line and fronts Kenwood Parkway. The portion of this lot belonging to 2380 West Lake of the Isles Parkway measures approximately 36.5 feet at the street and 17.77 feet at the alley, the remaining portion of that underlying lot is a part of the appellant's parcel addressed at 2211 Kenwood Parkway.

**Front Yard Setback Analysis:** The front yard setback for a single family home in the R2B Two Family District is typically determined by the more restrictive of two measurements: either a twenty (20) foot district setback per MCO Table 546-8; or an "established" front yard setback as determined by what is commonly referred to as the "string-line" test:

Front yard increased. The required front yard shall be increased where the established front yard of the closest principal building originally designed for residential purposes located on the same block face on either side of the property exceeds the front yard required by the zoning district. In such case, the required front yard shall be not less than such established front yard, provided that where there are principal buildings originally designed for residential purposes on both sides of the property, the required front yard shall be not less than that established by a line joining the nearest front corners of both buildings. Nothing in this provision shall authorize a front yard less than that required by the zoning district. MCO § 546.160(b) (emphasis added).

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The second line of the ordinance, when read in conjunction with the first line, is to be applied only where adjacent residential structures are located on the same block face. As a corner lot, the subject parcel fronts both the block faces along Kenwood Parkway and Lake of the Isles Parkway. The ordinance does not require an established front yard setback to be measured between structures on separate block faces. Therefore, the setback that would be established by the "string-line" test under section 546.160(b) is not applicable to the approved single-family home.

The site plan review and building permits were approved at a minimum setback from the front property line of approximately 36.9 feet. This is over six (6) feet further back from the property line than that of the adjacent property at 2211 Kenwood Parkway, which is 30.6 feet from the front property line; and over fourteen (14) feet further back than the adjacent property at 2374 West Lake of the Isles Parkway, which is twenty two (22) feet from the front property line.

**Appeal**: The appellant's application for appeal was in response to a determination made by the Zoning Administrator on April 12, 2012, rejecting the appellant's contention that the construction at 2380 West Lake of the Isles Parkway violates section 546.160(b) of the zoning code. The Zoning Administrator's initial determination asserted the validity of the application of a curvilinear setback arising from section 546.160(b) where the property and adjacent structures are located on a curvilinear street. (Attachment 1, Exhibit D). Following the application for appeal, the lot was identified as a corner lot and the amended determination was sent to the appellant. (Attachment 2).

The appellant asserts that the approvals violate the plain and unambiguous language and intent of section 546.160, which requires that "the required front yard shall not be less than that established by a line joining the nearest front corners of both buildings." As stated above, this reading of the ordinance would be applicable if the homes on either side of the property were on the same block face, which is not the case with the subject property. Taking the appellants' contention to its logical conclusion would result in an established front yard "string-line" setback for every corner lot with two street frontages, including all reverse-corner lots in the City of Minneapolis, effectively making those lots unbuildable.

#### **Findings:**

- 1. The property at 2380 West Lake of the Isles Parkway is a corner lot as defined under section 520.160 of the Minneapolis Code of Ordinances.
- 2. The properties adjacent to 2380 West Lake of the Isles Parkway are on two separate street frontages, Kenwood Parkway and West Lake of the Isles Parkway.
- 3. The established front yard "string-line" test under section 546.160(b) is only applicable where the properties on either side of the subject property are on the same block face, and is not intended to create an established setback for a corner lot with two separate street frontages.

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4. The approved and constructed single family dwelling has a greater front yard setback than the neighboring home on the same block face, therefore meeting the requirement of 546.160(b); therefore, administrative site plan review (BZZ 5396) and the building permit (BINB 2002905) are not in violation of the front yard setback under the Minneapolis code of ordinances.

### RECOMMENDATIONS

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the appeal of the decision of the zoning administrator:

The Department of Community Planning and Economic Development – Planning Division recommends that the Board of Adjustment adopt the above findings and <u>deny</u> the appeal of the Zoning Administrator's approval of a new single family dwelling located at 2380 West Lake of the Isles (BZZ 5396), on the contention that the front yard setback was improperly determined.

#### **Attachments:**

- 1) Statement of reason for the appeal submitted by the applicant
- 2) Amended written determination of the Zoning Administrator (May 4, 2012)
- 3) Zoning map
- 4) Plat Map
- 5) Property Survey
- 6) Approved Site Plan
- 7) Correspondence